

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Case No. 19-cr-20029

Plaintiff,

v.

HON. MATTHEW F. LEITMAN
United States District Judge

DOMINIQUE DUSHON GILBERT,

Defendant.

STIPULATED PRELIMINARY ORDER OF FORFEITURE

The United States of America, by and through its attorneys, MATTHEW SCHNEIDER, United States Attorney for the Eastern District of Michigan, and NANCY A. ABRAHAM, Assistant United States Attorney, together with Defendant DOMINIQUE GILBERT (“Defendant”), through his attorney, BARRY A. WOLF, ESQ., hereby submit this Stipulated Preliminary Order of Forfeiture:

1. A First Superseding Information was filed on or around May 16, 2019, which charged Defendant with Count One, Possession of Device-Making Equipment, in violation of 18 U.S.C. § 1029(a)(4), and Count Two, Aggravated Identity Theft/Aiding and Abetting, in violation of 18 U.S.C. § 1028A(a)(1), 18 U.S.C. § 2. (ECF No. 17).

2. The Superseding Information provided notice that upon Defendant’s conviction on Count One of the First Superseding Information, the government’s

intended to forfeit, pursuant to 18 U.S.C. §§ 982(a)(2)(B), any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of such violation, and pursuant to 18 U.S.C. § 1029(c)(2), any personal property used or intended to be used to commit the offenses.

3. On or about May 28, 2019, the defendant pleaded guilty to Counts One and Two of the First Superseding Information. In his Rule 11 Agreement (ECF No. 20) the Defendant also agreed to forfeit his interest in the following property to the United States, pursuant to 18 U.S.C. §§ 982(a)(2)(B), 1029(c)(2) and 28 U.S.C. § 2461(c):

- Acer Laptop, serial number LXRGK02015121416CF1601;
- Dell Laptop, serial number CXPW562;
- Five Flash Drives;
- Apple Cellular Telephone, serial number DNPWF341JCL7;
- ASUS Laptop model number 726NGW
- Pointman ID Card Printer;
- Embossing Machine;
- Brother P-touch Label Maker;
- Two Card Readers.

(hereinafter the “Subject Property”). The Subject Property was seized from 62XX Cypress Drive, Mt. Morris Township, Michigan, on or about June 22, 2018.

4. The forfeiture of Defendant’s interest in the Subject Property was ordered and pronounced at Defendant’s sentencing on October 1, 2019. The instant Stipulated Preliminary Order of Forfeiture memorializes the court’s order of forfeiture and provides direction regarding the rights of third parties and final

disposition of the Subject Property.

5. In entering into this Stipulation with respect to forfeiture, Defendant acknowledges that he understands forfeiture is part of the sentence and waives his right to challenge any failure by the Court to advise him of this at the time that his guilty plea was accepted pursuant to Federal Rule of Criminal Procedure 11(b)(1)(J).

6. In entering into this Stipulation with respect to forfeiture, Defendant knowingly, voluntarily, and intelligently waives any challenge to forfeiture of the property described in paragraph 3 (“Subject Property”) based upon the Excessive Fines Clause of the Eighth Amendment to the United States Constitution.

7. In entering into this Stipulation with respect to forfeiture, Defendant expressly waives the requirements of Federal Rules of Criminal Procedure 32.2 and 43(a) regarding pronouncement of forfeiture at sentencing and incorporation of forfeiture in the judgment and expressly waives any right to have a jury determine forfeiture of his interest in the Subject Property.

8. Therefore, based upon the Superseding Information, this Stipulation, and other information in the record, and pursuant to 18 U.S.C. §§ 982(a)(2)(B), 1029(c)(2) and 28 U.S.C. § 2461(c), IT IS HEREBY ORDERED that any and all interest the Defendant has in the following Subject Property, seized from 62XX Cypress Drive, Mt. Morris Township, Michigan, on or about June 22, 2018, is FORFEITED to the United States:

- Acer Laptop, serial number LXRGK02015121416CF1601;
- Dell Laptop, serial number CXPW562;
- Five Flash Drives;
- Apple Cellular Telephone, serial number DNPWF341JCL7;
- ASUS Laptop model number 726NGW
- Pointman ID Card Printer;
- Embossing Machine;
- Brother P-touch Label Maker;
- Two Card Readers.

Any right, title or interest of Defendant, and any right, title or interest that his heirs, successors or assigns have, or may have, in the above-described Subject Property is EXTINGUISHED.

9. Upon entry of this Stipulated Preliminary Order of Forfeiture the United States Attorney General or his designee is authorized to commence any applicable proceeding to comply with the statutes governing third party rights, including giving notice of this Order.

10. Upon entry of this Stipulated Preliminary Order of Forfeiture and pursuant to 21 U.S.C. § 853(n), and other applicable statutes, the United States shall publish on www.forfeiture.gov, notice of this Stipulated Preliminary Order of Forfeiture and of its intent to dispose of the Subject Property in such manner as the Attorney General may direct. The United States may also, to the extent practicable, provide direct written notice to any person or entity known to have an alleged interest in the Subject Property. The aforementioned notice shall direct that any person, other than the Defendant, asserting a legal interest in the Subject Property

may file a petition with the Court within thirty (30) days of the final publication of notice or of receipt of actual notice, whichever is earlier. The petition shall be for a hearing before the Court alone, without a jury and in accordance with 21 U.S.C. § 853(n), to adjudicate the validity of the petitioner's alleged interest in the Subject Property. Any petition filed by a third party asserting an interest in the Subject Property must be signed by the petitioner under penalty of perjury and must set forth the nature and extent of the petitioner's alleged right, title or interest in the Subject Property, the time and circumstances of the petitioner's acquisition of the right, title, or interest in the Subject Property, and any additional facts supporting the petitioner's claim, and the relief sought.

11. Further, after the disposition of any motion filed under Federal Rule of Criminal Procedure 32.2(c)(1)(A) and before a hearing on any ancillary petition, the United States may conduct discovery in accordance with the Federal Rules of Civil Procedure upon a showing that such discovery is necessary or desirable to resolve factual issues.

12. This Stipulated Preliminary Order of Forfeiture shall become final as to Defendant at the time of entry. The Order of Forfeiture is part of the Defendant's sentence in this case and shall be included in the Judgment. If no third party files a timely claim, this Stipulated Preliminary Order of Forfeiture shall become the Final Order of Forfeiture, as provided by Federal Rule of Criminal Procedure 32.2(c)(2).

13. The United States shall have clear title to the Subject Property and shall be authorized to dispose of the Subject Property as prescribed by law, following the Court's disposition of all third-party interests, or, if none, following the expiration of the period provided in 21 U.S.C. § 853(n)(2) for the filing of third party petitions.

14. The Court retains jurisdiction to enforce this Order, and to amend it as necessary, pursuant to Federal Rule of Criminal Procedure 32.2(e).

Agreed as to form and substance:

MATTHEW SCHNEIDER
United States Attorney

s/ NANCY A. ABRAHAM
Assistant United States Attorney
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(810) 766-5177

s/ BARRY A. WOLF w/consent
Attorney for Defendant
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Flint, MI 48502
(810) 762-1084

Dated: October 4, 2019

IT IS SO ORDERED.

/s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: October 8, 2019